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EAST TIMOR: FURTHER RELEASES OF POLITICAL PRISONERS AND UNFAIR TRIALS

As political prisoners in East Timor continue to be released, Amnesty International has received information which substantiates its concerns that their trials were not fair. A further 52 prisoners (see Annex I) were given conditional release on 19 February 1988, bringing the number of political detainees remaining in Dili prisons down to 12, according to a report from Antara, the Indonesian news agency. A total of xx prisoners have been released since August 1987.

These releases must be placed in perspective. The vast majority had

served all but a few months of their sentences, and many prisoners were released before their full term had expired in accordance with the standard policy on remissions. The releases thus are not exceptional; what is unusual is the decision of the Indonesian Government to publicize them.

More important, however, many of the prisoners appear to have been tried on the basis of false or coerced testimony after long periods of incommunicado detention during which some were reportedly told that signing a "confession" and accepting the verdict of the court would enable them to receive visits from their families. Many apparently did not understand that they had the right to appeal and in some cases were told that if they did not accept their sentence, it would be increased. (Amnesty International has repeatedly expressed concern that over 200 prisoners were tried between 1983 and 1987 without a single appeal having been made. The presiding judge of Dili District Court where the trials took place said in 1985 that all defendants pleaded guilty and accepted the court verdict because they were honest and never denied anything. See ASA 21/44/85 Unfair Trials and Possible Torture in East Timor.)

The background to the arrest, trial and release of a few prisoners from Baucau is described below.

Prisoners from Baucau District: A Case Study

Sebastiao Sarmento from Wailili, Baucau was released in September 1987;

Rafael Xavier from Gariwai (Gari Uai) was released in October. Both were among more than 100 people arrested in August 1983 during the Indonesian military offensive known as Operasi Sapu Bersih ("Operation Clean Sweep") which followed the breakdown the previous March of a ceasefire between the Indonesian army and the armed forces of the Frente Revolucionaria de Timor Leste Independente (Fretilin). Many of those arrested in August 1983 were reportedly detained and tortured in military detention centers such as the KODIM (military district command), KORAMIL (sub-district command) and in an annex behind the Hotel Flamboyan used by the Indonesian Special Forces (Kopassus). Some were released, others "disappeared" and several dozen including Sebastiao Sarmento and Rafael Xavier were sent by truck to the Comarca Prison in Dili. No international organization had access to the Comarca at the time, and the availability of food and medicine was reported to be far below minimally accepted standards. Conditions were said to improve somewhat after the International Committee of the Red Cross was given permission to make regular visits to the prison in June 1984. According to Amnesty International's information, neither Sebastiao Sarmento, Rafael Xavier nor any of the other prisoners in the Comarca were allowed contact with friends, relatives or lawyers until after they had been tried, and the prospect of seeing their families was said to have been one inducement held out to the prisoners by the Indonesian authorities in order to get them to sign "confessions".

In early 1985 Sebastiao Sarmento and Rafael Xavier were taken from the Comarca to the public prosecutor's office in Dili in the building that

formerly housed the Club Benfica. There they were asked to fill out an sign an interrogation statement (berita acara pemeriksaan or BAP) testifying to their guilt in front of a tim pemeriksaan consisting of a police officer, a typist and an interpreter. According to one source there was no evidence that these men were actively involved in the resistance, but they came from areas where Fretilin was active and inevitably knew some of the fighters. The lack of evidence presented a problem for the prosecution which appeared to be determined to try them but also to adhere as closely to procedures outlined in the Indonesian Criminal Procedure Code (KUHAP). The Code requires at least two separate pieces of evidence to convict someone. The confession of the accused cannot stand on its own, nor can the testimony of a single witness. In the case of the two Baucau prisoners whose interrogation statements contained little evidence usable in court, the prosecutor persuaded other prisoners from the same hamlet to testify against them. These testimonies then became the basis for the prosecution's case against the witnesses themselves.

Thus, Carlos Freitas and ~~Joao Xavier~~ Jacinto Freitas, both from Wailili like Sebastiao Sarmento, testified against the latter. All three were tried in February 1985; Sebastiao received a prison term of three years, Carlos Freitas received two and a half, and ~~Joao Xavier~~ Jacinto Freitas received two. All have now been released.

Likewise three men from Gariwai--Jose Belo, Jose Freitas and Jose Maria Ximenes--reportedly testified against Rafael Xavier and all became

defendants in turn. Jose Maria Ximenes had been arrested reportedly because his brother-in-law, Tomas Rodrigues, was a Fretilin leader. He received a sentence of two years, Jose Belo and Jose Freitas each were sentenced to 34 months and Rafael Xavier received a three-year sentence.

All of the men in question were peasants with almost no education and it is unlikely that they understood the consequences of their agreement to sign the BAPs and act as witnesses for each other. Their court-appointed defence team from Trisula Legal Aid Institute in Kupang told in Far Eastern Economic Review (8 August 1985) that guilty pleas saved time and that they saw their role as only to lighten the sentence requested by the prosecutor. The trials rarely lasted a week; in some cases, if the lawyers were in town, prisoners reportedly were taken from the Comarca to the prosecutor's office to sign their statement and then taken across the street to the District Court on the same day to be tried and sentenced.

Prisoners Who Refused to Sign Interrogation Statements

Not all prisoners agreed to sign the BAPs prepared at the prosecutor's office. Cristiano da Costa was among 50 prisoners, 19 of them from Baucau, who refused to do so when brought to the prosecutor's office in early 1985. With their refusal to accept guilt, there was no evidence against them, and all were eventually released on 27 April 1985 in a ceremony at the KODIM headquarters in Dili.

In a statement to the United Nations Special Committee on Decolonization in August 1985, Amnesty International noted that it had received a list of the 50 persons accused of supporting Fretilin who were released on 27 April 1985. "It is to be assumed," the statement said, "that these prisoners were held without charge or trial since their names do not coincide with the names of [those] tried." As Cristiano da Costa's experience shows, this proved to be correct.

He and some 20 others were arrested in Baucau in August 1983 and sent after two weeks to the Comarca. For the first two days of his imprisonment at the KODIM in Baucau, he was tortured during interrogation with lighted cigarettes applied to his face and live electric wires tied to his fingers and held in one ear. He was beaten and kicked, and after he fell to the floor from a heavy blow by one of his military interrogators, a soldier stepped on his head, smashing his two front teeth. Following his transfer to Dili, he was held for 20 months in the Comarca without being allowed to contact friends or family.

No.	Name	Registration No.	Sentence	Beginning of sentence	Scheduled completion of sentence	2/3 of sentence	Residence
1.	JOAO FELISIANO SURIANO	BI. 02/84/G	5 years	29-05-1984	24-12-1988	27-07-1987	Dili
2.	MATIAS OLIVERA	BI. 03/84/G	5 years	30-05-1984	26-12-1988	29-07-1987	Dili
3.	OCTAVIA MARIA DE ARAUJO	BI. 04/84/G	5 years	30-05-1984	24-12-1988	25-07-1987	Dili
4.	MARIA IMACULADA	BI. 06/84/G	5 years	30-08-1984	21-05-1989	13-10-1987	Dili
5.	BEATRIS DUARTE ALBERTO	BI. 07/84/G	5 years	30-08-1984	21-05-1989	13-10-1987	Dili
6.	ALEXANDER ROSA	BI. 08/84/G	5 years	30-08-1984	21-05-1989	13-10-1987	Dili
7.	FERNANDO DA COSTA	BI. 09/84/G	5 years	27-09-1984	23-06-1989	12-11-1987	Viqueque
8.	DOMINGGAS DA COSTA	BI. 10/84/G	6 years	10-11-1984	05-08-1988	11-12-1987	Dili
9.	PAULO AMARAL	BI. 12/84/G	4 years	20-10-1984	29-06-1988	19-02-1987	Viqueque
10.	JOAO BOSCO J. ANICETO	BI. 13/84/G	4 years	19-10-1984	23-06-1988	18-04-1987	Dili
11.	FRANSISCO FELISIANO	BI. 14/84/G	4 years	19-10-1984	23-06-1988	18-04-1987	Baucau
12.	BALTASAR MENDES	BI. 82/85/G	3 yrs, 6 mo.	15-07-1985	23-06-1988	11-10-1987	Dili
13.	MIQUEL SOARES	BI. 89/85/G	4 years	30-07-1985	21-04-1989	19-01-1988	Viqueque
14.	MOSES DA COSTA	BI. 90/85/G	3 years	30-07-1985	21-04-1988	26-05-1987	Same
15.	DOMINGGUS BARETO	BI. 100/85/G	3 years	08-08-1985	23-03-1988	16-08-1988	Manatuto
16.	DOMINGGUS XIMENES	BI. 102/85/G	3 years	08-08-1985	23-03-1988	16-08-1987	Manatuto
17.	ALVARO DO SANTOS	BI. 112/85/G	3 yrs, 6 mo.	13-08-1985	27-10-1988	02-10-1987	Maliana
18.	TITO BARETO	BI. 113/85/G	3 years	13-08-1985	30-04-1988	09-07-1987	Viqueque
19.	CARLOS DA COSTA	BI. 117/85/G	3 years	19-08-1985	30-04-1988	01-06-1987	Maliana
20.	MANUEL AGUSTINO	BI. 118/85/G	3 years	19-08-1985	30-04-1988	01-06-1987	Maliana
21.	ANTONI AMANDO SOARES	BI. 130/85/G	3 years	16-12-1985	09-09-1988	27-10-1987	Viqueque
22.	CRISTOVAO XIMENES	BI. 14/86/G	2 years	19-03-1986	06-06-1988	01-09-1987	Viqueque
23.	MARSELINO SARMENTO	BI. 53/86/G	2 years	18-10-1986	06-08-1988	11-01-1988	Baucau
24.	DOMINGGUS DA COSTA	BI. 57/86/G	2 years	15-10-1986	27-07-1988	21-12-1987	Viqueque
25.	ROSA MENDOSA	BI. 59/86/G	2 years	23-10-1986	25-08-1988	12-01-1988	Aniaro
26.	JOAO XAVIER	BI. 60/86/G	2 years	23-10-1986	21-08-1988	12-01-1988	Ainaro
27.	ERNESTO SOARES	BI. 69/86/G	2 years	23-10-1986	25-08-1988	01-01-1988	Baucau
28.	ARMANDO DO SANTOS	BI. 70/86/G	2 years	25-10-1986	16-09-1988	06-01-1988	Lospalos
29.	RUMALDO PEREIRA	BI. 13/87/G	1 yr, 6 mo.	04-02-1987	23-04-1988	02-01-1988	Baucau
30.	FLORINDO DA COSTA	BI. 15/87/G	2 years	03-02-1987	26-10-1988	16-04-1987	Ailiu
31.	EGIDIO DE JESUS	BI. 14/87/G	1yr, 6 mo	29-01-1987	23-04-1988	22-11-1987	Ailiu
32.	HENDRIQIFALCAU	BI. 16/87/G	1 yr, 6 mo	09-02-1987	23-04-1988	22-11-1987	Ailiu
33	ALCINA DOS SANTOS	BI 18/87/G	1 yr, 6 mo.	16-02-1987	07-05-1988	03-12-1987	Lautem
34.	DOMINGGUS XAVIER	BI. 12/87/G	2 years	16-02-1987	26-10-1988	25-03-1988	Ailiu
35	LEAO MENDOSA	BI. 06/87/G	2 years	05-02-1987	26-10-1988	26-03-1988	Ailiu
36	VITAL NOROHA	BI. 08/87/G	2 years	09-02-1987	26-10-1988	27-03-1988	Ailiu
37.	TITO DE ARAUJO	BI. 07/87/G	2 years	09-02-1987	26-10-1988	27-03-1988	Ailiu
38	SABINO BARETO	BI. 106/85/G	4 years	15-08-1985	27-10-1989	29-05-1988	Maliana
39.	MANUEL MARSAL SECERIA	BI. 66/86/G	3 years	11-11-1986	06-08-1989	29-08-1988	Baucau
40	MARIA FATIMA PINTO	BI. 05/84/G	6 yrs, 6 mo:	29-08-1984	15-11-1990	19-10-1988	Dili
41	JOAQINA	BI 09/87/G	3 years	16-02-1987	09-11-1989	02-12-1987	Lautem
42.	MARSAL MAYA	BI. 108/85/G	4 yrs, 6 mo.	12-08-1985	20-10-1989	02-10-1987	Bobonaro
43.	ALFONCO	BI. 115/85/G	5 years	29-08-1985	23-03-1990	09-09-1988	Viqueque
44.	ANTONI	BI. 126/85/G	5 years	14-12-1985	04-10-1990	22-02-1989	Lospalos
45.	AMARO SARMENTO	BI. 34/86/G	3 years	27-08-1986	25-02-1989	02-04-1988	Viqueque
46.	KANDIDO BABU	BI. 38/86/G	3 yrs, 6 mo.	03-07-1986	25-09-1989	24-04-1988	Viqueque
47.	JOSE RAMOS	BI. 61/86/G	3 years	21-11-1986	30-08-1989	10-10-1988	Ainaro
48.	RICARDO FREITAS	BI. 65/86/G	3 years	17-10-1986	30-08-1989	11-08-1988	Baucau
49	JOSE FERNANDES	BI. 10/87/G	2 years	28-01-1987	09-11-1988	04-04-1988	Lospalos
50	FRANSISCO SOARES	BI. 66/87	1 yr, 6 mo	02-12-1987	23-02-1989	02-02-1988	Lautem
51.	DOMINGGUS ROTREIGAS	BI. 67/87/G	1 yr, 6 mo.	02-12-1987	23-02-1989	02-02-1988	Lautem
52	ANTONI DA CRUS	BI 68/67/G	1 yr, 6 mo.	02-12-1987	23-02-1989	02-02-1988	Lautem